



DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Labor Condition Application for H-1B, H-1B1, and E-3 Non-immigrants ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) revision titled, “Labor Condition Application for H-1B, H-1B1, and E-3 Non-immigrants,” (Form ETA-9035 and ETA-9035E) to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.).

DATES: Submit comments on or before [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, <http://www.reginfo.gov/public/do/PRAMain>, on the day following publication of this notice or by contacting Michel Smyth by telephone at 202-693-4129 (this is not a toll-free number) or sending an email to DOL_PRA_PUBLIC@dol.gov.

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, Employment and Training

Administration (ETA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202-395-6929/Fax: 202-395-6881 (these are not toll-free numbers), email: OIRA_submission@omb.eop.gov.

FOR FURTHER INFORMATION: Contact Michel Smyth by telephone at 202-693-4129 (this is not a toll-free number) or by email at DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: This information collection is required by Immigration and Nationality Act (INA) sections 212(n) and (t) and 214(c). See 8 U.S.C. 1182(n) and (t) and 1184(c). The DOL and Department of Homeland Security have promulgated regulations to implement the INA. Specifically for this collection, 20 CFR 655 Subparts H and I and 8 CFR 214.2(h)(4) are applicable. The INA mandates that no alien may enter the U.S. for the purpose of performing professional work on a temporary basis unless the U.S. employer has attested to the Secretary of Labor that the working conditions for the alien will not adversely affect the working conditions of similarly employed U.S. workers; that the salary will be at least the prevailing wage for the occupational classification in the area of employment or the actual wage paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question, whichever is higher; that there is no strike or lockout in the course of a labor dispute in the occupational classification at the place of employment; and that the employer has met all other requirements of the program as specified in the regulations.

The information collection instruments are used by employers seeking to use non-immigrants (H-1B, H-1B1, E-3) in specialty occupations and as fashion models or by interested parties who want to report violations. The information permits the DOL to

meet its statutory responsibilities for program administration, management, and oversight.

The DOL has identified this ICR as a revision because of two minor changes. Specifically, this submission includes an acknowledgement sheet for Form ETA 9035 and ETA-9035E and removes appendix materials that are now obsolete. These changes have not altered the burden estimates.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under OMB Control Number 1205-0310. The current OMB approval is scheduled to expire on January 31, 2012; however, it should be noted that information collections submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the Federal Register on October 17, 2011 (76 FR 64109).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the ADDRESSES section within 30 days of publication of this notice in the Federal Register. In order to help

ensure appropriate consideration, comments should reference OMB Control Number 1205-0310. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment and Training Administration (ETA).

Title of Collection: Labor Condition Application for H-1B, H-1B1, and E-3 Non-immigrants.

OMB Control Number: 1205-0310.

Form Numbers: ETA-9035 and ETA-9035E.

Affected Public: Individuals or Households; Private Sector—Business or other for-profits and not-for-profit entities; and State, Local, and Tribal Governments.

Total Estimated Number of Respondents: 77,425.

Total Estimated Number of Responses: 340,425.

Total Estimated Annual Burden Hours: 310,005.

Total Estimated Annual Other Costs Burden: \$0.

Dated: January 18, 2011.

Michel Smyth,

Departmental Clearance Officer.

BILLING CODE: 4510—FP—P

[FR Doc. 2012-1227 Filed 01/20/2012 at 8:45 am; Publication Date: 01/23/2012]